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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RUBEN JUAREZ, CALIN CONSTANTIN
SEGARCEANU, EMILIANO GALICIA, and
JOSUE JIMENEZ, on behalf of themselves
and all others similarly situated,

Case No. 4:20-cv-03386 (HSG)

Plaintiffs,
v.

**NOTICE OF MOTION AND
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

SOCIAL FINANCE, INC. d/b/a SOFI, and
SOFI LENDING CORP. d/b/a SOFI,

Judge: Haywood S. Gilliam, Jr.
Hearing Date: May 11, 2023
Hearing Time: 2:00 p.m.
Courtroom: 2, 4th floor

Defendant.

NOTICE OF MOTION AND MOTION

2 PLEASE TAKE NOTICE that on May 11, 2023 at 2:00 p.m., or as soon thereafter as
3 the matter may be heard, in Courtroom 2 on the 4th floor of this Court's Oakland Courthouse,
4 located at 1301 Clay Street, Oakland, California, Plaintiff Ruben Juarez, individually (the
5 "Individual Plaintiff"), and Plaintiffs Calin Constantin Segarceanu, Emiliano Galicia and
6 Josue Jimenez, individually and as class representatives on behalf of the Class (together "the
7 Class Representatives"), will, and hereby do, move this Court for an order: (1) granting,
8 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, final approval of the parties'
9 proposed class action settlement ("Settlement"), and entry of judgment in accordance with the
10 Settlement; and (2) granting, pursuant to Rules 23(a) and 23(b)(3), final class certification of
11 the Settlement Class conditionally certified in the Preliminary Approval Order. ECF No. 101.

Plaintiffs make this motion on the grounds that the Settlement is fair, adequate, and reasonable, was reached through arm's-length negotiations with an experienced mediator, and has drawn a highly favorable response from the Class, as described in the attached memorandum. The Settlement Agreement provides two important forms of relief for the Class Members: (1) programmatic relief whereby SoFi will change its lending policies such that DACA and CPR applicants will be evaluated for consumer credit product eligibility on the same terms as U.S. citizen applicants and (2) a Settlement Fund of \$155,000 to compensate Class Members who choose to file claim forms.

20 This Motion is noticed to be heard with Plaintiffs' previously filed Motion for
21 Approval of Attorneys' Fees, Costs, and Service Awards. ECF No. 106. The Court
22 preliminary approved the Settlement Agreement on December 15, 2022. ECF No. 101. Since
23 then, Notice was provided to the settlement Class Members. No Class Members have opted
24 out of the settlement and no Class Member has objected. The motion is based on this notice
25 of motion and motion; the memorandum in support of the motion; the accompanying
26 Declaration of Ossai Miazad ("Miazad Decl."); the Declaration of Samantha Ries for Rust
27 Consulting, Inc. ("Rust Decl."); the Court's record of this action; all matters of which the

1 Court may take notice; and any oral evidence presented at the final approval hearing on the
2 motion.

3 Dated: April 27, 2023

Respectfully submitted,

4 By: /s/ Ossai Miazad

5 Ossai Miazad

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20 *Class*

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1 **MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR FINAL APPROVAL**

2 **I. INTRODUCTION**

3 Plaintiff Ruben Juarez filed this case so that he and others similarly situated to him would
 4 have the opportunity to apply and be considered for lending opportunities with Defendants Social
 5 Finance, Inc. d/b/a SoFi and SoFi Lending Corp. d/b/a SoFi (together “SoFi”) on the basis of their
 6 credit worthiness and not their citizenship or immigration status. This Settlement of which
 7 Plaintiffs respectfully seek final approval addresses the precise policy underlying Plaintiffs’ claim
 8 of discrimination. Critically, Sofi has agreed to change their lending policies to make credit and
 9 loans available to DACA and CPR recipients on the same terms and conditions as those offered to
 10 U.S. citizens, fully eliminating the harm challenged by the lawsuit for future applicants.

11 The Settlement also provides for monetary relief in the form of a Settlement Fund¹ in the
 12 amount of \$155,000 and an additional \$25,000 in administration costs and up to \$300,000 in
 13 attorneys’ fees and costs. The Settlement, which the Court preliminarily approved on December
 14 15, 2022, was reached after two years of litigation and extensive negotiation, and has received a
 15 positive response from the Class. As of April 24, 2023 144 Verified Claims (41 Verified
 16 California Class Claims and 103 Verified National Class Claims Class) were submitted by 111
 17 Class Members. Rust Decl. ¶ 18. No Class Members have opted out or submitted an objection.
 18 *Id.* ¶¶ 15-16.

19 **II. RELEVANT BACKGROUND**

20 As described in Plaintiffs’ Motion for Preliminary Approval, ECF No. 93, and Plaintiffs’
 21 Motion for Approval of Attorneys’ Fees, Costs, and Service Awards, ECF No. 106, Class Counsel
 22 has dedicated hundreds of hours to this highly contested litigation and engaged in extensive
 23 arm’s-length settlement negotiations, resulting in significant relief to the Class.² See Declaration
 24 of Ossai Miazad (“Miazad Decl.”) ¶ 10. The Settlement achieved by Class Counsel is

25
 26 ¹ Unless otherwise stated, all capitalized terms are used as defined in the Settlement
 27 Agreement. ECF No. 93-3 (Settlement Agreement).

27 ² A full discussion of the relevant factual and procedural background is set forth in
 28 Plaintiffs’ Motion for Preliminary Approval, ECF No. 93, and Plaintiffs’ Motion for Approval of
 Attorneys’ Fees, Costs, and Service Awards, ECF No. 106.

1 procedurally sound: (a) having been reached after two years of hard-fought, adversarial litigation,
 2 including discovery and extensive motion practice (including briefing oppositions to a motion to
 3 dismiss and strike, and two motions to compel arbitration); (b) with no parallel litigation that
 4 could give rise to reverse auction concerns; and (c) after a full-day mediation session, overseen by
 5 a highly experienced mediator with particular expertise in complex class actions, and followed by
 6 months of further negotiations between the parties. *Id.* ¶ 11.

7 **A. Settlement Negotiations and Preliminary Approval**

8 On July 15, 2021, the parties participated in a private mediation session with experienced
 9 JAMS arbitrator David Geronemus, during which they were initially unable to reach a settlement.
 10 Miazad Decl. ¶ 12. Following the July mediation, the parties continued to engage with the
 11 mediator, and with each other, to explore avenues for a potential resolution, while simultaneously
 12 moving forward with litigation. *Id.* ¶ 13. In November 2021, the parties reached a tentative
 13 agreement on the materials terms of a settlement, and thereafter stipulated to a stay of litigation
 14 pending further negotiations. *Id.* ¶ 14; ECF Nos. 83, 85, 87, 89 (Stipulations). The parties spent
 15 the next several months diligently negotiating the terms of the settlement agreement and
 16 accompanying notice documents. Miazad Decl. ¶ 15. The parties' settlement of the award of
 17 attorneys' fees and costs was negotiated separately from, and subsequent to, negotiating relief for
 18 the Class, and will not be paid out of the relief available to the Class. *Id.* ¶ 16.

19 To effectuate the Settlement, Class Counsel obtained bids from several settlement
 20 administrators before selecting Rust Consulting, Inc. ("Rust"). *Id.* ¶ 17. Class Counsel also
 21 drafted and filed the preliminary approval brief, and finalized the accompanying notice
 22 documents: notices (mail, email, and text), claim forms and instructions, reminder, and official
 23 documentation request. ECF. No 93. Class Counsel further filed a supplemental brief in support
 24 of preliminary approval to amend the proposed notice and claim forms, adding language directing
 25 recipients to Spanish language resources that are available through the Settlement Administrator.
 26 ECF. Nos. 96-97. Following the preliminary approval hearing and the Court's grant of
 27 preliminary approval, on December 15, 2022, Class Counsel further amended the notice to reflect
 28 that individuals wishing to opt out of the Settlement will not be required to submit documentation

1 reflecting their immigration status, and to provide additional information regarding the settlement
 2 approval process as directed by the Court. ECF Nos. 100-101.

3 **B. Settlement Overview**

4 **1. Programmatic Relief**

5 The most significant aspect of the Settlement which Plaintiffs were not able to achieve
 6 except for filing this lawsuit is that, subject to its lending requirements, SoFi agrees to modify its
 7 lending criteria to make DACA recipients and Conditional Permanent Residents (“CPRs”)
 8 eligible for Loans on the same terms as U.S. citizens and Lawful Permanent Residents (“LPRs”),
 9 (the “Programmatic Relief”). ECF No. 93-3, Settlement Agreement (“SA”) § 3.2. By removing
 10 additional lending requirements and eligibility bars, this policy change eliminates the precise
 11 discriminatory harm that Plaintiffs challenged through this suit, and restores Plaintiffs and Class
 12 Members to equal footing with U.S. citizen and LPR applicants. As a major lender, particularly
 13 with respect to student loans and loan refinancing, Plaintiffs hope and expect that SoFi’s decision
 14 to open its suite of consumer lending products to DACA recipients and CPRs will have a positive
 15 impact on the consumer lending industry at large.

16 **2. Monetary Relief**

17 In addition to Programmatic Relief, SoFi has agreed to create a \$155,000 Settlement Fund
 18 that will cover: pro rata payments to (a) Verified Claims for each California and National Class
 19 Member; (b) Incentive Awards of up to \$5,000 each for Plaintiffs Segarceanu, Galicia and
 20 Jimenez; and (c) an Individual Payment of up to \$5,540 for Plaintiff Juarez. SA §§ 3.3.5, 15.2.
 21 As discussed in Plaintiffs’ Motion for Approval of Attorneys’ Fees, Costs, and Service Awards at
 22 21-24, ECF No. 106, the Settlement Agreement provides for an individual payment in the amount
 23 of \$5,540³ to Plaintiff Juarez, which is the same amount as the National Class Representative,
 24 because he will not benefit from the class settlement as his claim falls outside of the class

25
 26 ³ Plaintiffs previously requested an Individual Payment to Individual Plaintiff Ruben Juarez
 27 of \$6,000 which comprises of a \$5,000 service award and the \$1,000 payment equivalent to the
 28 settlement share available to National Class Members). See ECF No. 106. Because National
 Class Members’ pro rata share per Verified Claim is estimated to be \$540, Plaintiff Juarez now
 adjusts his requested Individual Payment to \$5,540.

1 definition due to the fact that he attempted to apply for loans over the phone before SoFi created a
 2 designated customer service line for DACA recipient and other non-permanent residents in
 3 December 2019. Nonetheless, he agreed and supported the settlement because he believes it is in
 4 the best interest on the Class. ECF No. 106-4 (Juarez Decl.) ¶ 5. In addition to the \$155,000
 5 Settlement Fund, SoFi has further agreed to pay up to \$300,000 in Class Counsel's attorneys' fees
 6 and expenses, and up to \$25,000 in settlement administration costs. SA §§ 3.3, 15.1.

7 The plan of allocation fairly and adequately compensates Class Members. For purposes of
 8 Rust's preliminary calculation of Class Members' settlement share, Rust assumed that 11 claims
 9 submitted without a W-9 will cure the deficiency, so the calculation assumes 46 claims from
 10 California Class Members and 111 claims from National Class Members. Rust Decl. ¶ 20. Rust
 11 estimates that California Class Members are eligible to receive up to \$1,620 per claim. *Id.*
 12 National Class Members are eligible to receive up to \$540 per claim reflecting their potential
 13 entitlement to compensatory or nominal damages available under Section 1981. *Id.* These
 14 payments are calculated as a pro rata share of the Settlement, with each California Class Member
 15 receiving three times the pro rata share of each National Class Member for each Verified Claim.
 16 *Id.* The highest award for Class Members is approximately \$4,860 and the lowest award is
 17 approximately \$540. *Id.* The average award for Class Members is approximately \$1,102.13. *Id.*

18 3. The Settlement Classes

19 For settlement purposes only and consistent with the parties' Settlement Agreement,
 20 Plaintiffs seek final certification of a National Class and a California Class. The two classes are
 21 defined as follows:

22 **"National Class"** means those individuals who:

- 23 • (i) applied for or attempted to apply for any credit product from SoFi; (ii) between
 December 19, 2019 through the date of preliminary approval; (iii) who held valid and
 unexpired DACA or CPR status at the time they applied for or attempted to apply for
 credit; (iv) who called SoFi at the designated 877 number regarding the application as set
 forth in the class data produced by SoFi; (v) who were denied as set forth in the class data
 produced by SoFi; and (vi) who were not California residents as indicated in the "applied
 state" data field as set forth in the class data produced by SoFi; or
- 27 • (i) applied for or attempted to apply for any credit product from SoFi; (ii) between May
 19, 2017 through the date of preliminary approval; (iii) who held valid and unexpired

1 DACA or CPR status at the time they applied for or attempted to apply for credit; (iv) who
 2 opted out of SoFi's arbitration provision in writing; (v) who were denied as set forth in the
 3 class data produced by SoFi; and (vii) who were not California residents as set forth in the
 4 class data produced by SoFi. SA § 1.9.1.

5 **"California Class"** means those individuals who:

- 6 • (i) applied for or attempted to apply for a credit product from SoFi; (ii) between December
 7 19, 2019 through the date of preliminary approval; (iii) who held valid and unexpired
 8 DACA or CPR status at the time they applied for or attempted to apply for credit; (iv) who
 9 called SoFi at the designated 877 number regarding the application as set forth in the class
 10 data produced by SoFi; (v) who were denied as set forth in the class data produced by
 11 SoFi; and (vi) who were California residents as indicated in the "applied state" data field
 12 as set forth in the class data produced by SoFi; or
- 13 • (i) applied for or attempted to apply for a credit product from SoFi; (ii) between May 19,
 14 2017 through the date of preliminary approval; (iii) who held valid and unexpired DACA
 15 or CPR status at the time they applied for or attempted to apply for credit; (iv) who opted
 16 out of SoFi's arbitration provision in writing; (v) who were denied as set forth in the class
 17 data produced by SoFi; and (vii) who were California residents as set forth in the class
 18 data produced by SoFi. SA § 1.9.2.

19 As described in detail in Plaintiffs' Motion for Preliminary Approval, these classes are
 20 narrower than those proposed in the complaint in that they exclude applicants subject to SoFi's
 21 online arbitration agreement (i.e., those who applied on SoFi's website and did not opt out, or
 22 separately seek to apply over the phone).

23 It is an "unremarkable feature of class actions that class definitions are refined" over the
 24 course of litigation and settlement to "reflect the developing realities of a given suit." *Brown v.
 25 Hain Celestial Grp., Inc.*, No. 11 Civ. 03082, 2014 U.S. Dist. LEXIS 162038, at *17 (N.D. Cal.
 26 Nov. 18, 2014). This makes sense because plaintiffs typically craft their proposed class definition
 27 at the outset of litigation, before the contours of the claims and defenses have been refined by
 28 discovery and motion practice. Ninth Circuit courts thus "regularly allow class definitions to be
 29 adjusted over the course of a lawsuit," including at the settlement stage. *Id.* at *17-18 (noting that
 30 "[c]lass definitions are often revised, for example, to reflect the contours of a settlement").

31 As a result, class definitions may be properly narrowed to exclude individuals subject to a
 32 unique defense or limitation, both before and at the settlement stage. *See, e.g., Yanez v. HL
 33 Welding, Inc.*, No. 20 Civ. 1789, 2021 U.S. Dist. LEXIS 135234, at *7-8, *32 (S.D. Cal. July 20,
 34 2021) (preliminarily approving settlement classes that differed from those in the complaint by

1 excluding employees who signed arbitration agreements); *Wallace v. Countrywide Home Loans,*
 2 *Inc.*, No. 08 Civ. 1463, 2014 U.S. Dist. LEXIS 198351, at *10-11 (C.D. Cal. July 2, 2014)
 3 (preliminarily approving class definition excluding individuals who had released their claims in a
 4 related settlement, and finding that this narrowed definition “would in fact enhance the
 5 predominance of common questions by removing those Class members who cannot pursue claims
 6 in this action”); *Zamora v. Ryder Integrated Logistics, Inc.*, No. 13 Civ. 2679, 2014 U.S. Dist.
 7 LEXIS 184096, at *12, *34 (S.D. Cal. Dec. 23, 2014) (finally approving settlement where
 8 proposed class definition was “significantly more limited to the class identified in the original
 9 complaint,” in part by excluding individuals bound by a different settlement); *Brown*, 2014 U.S.
 10 Dist. LEXIS 162038, at *19-20, *62-63 (certifying consumer class over objections where
 11 narrowed definitions appropriately excluded buyers of non-actionable products).

12 Here, the proposed settlement classes appropriately exclude individuals who are subject to
 13 SoFi’s arbitration agreement. The parties negotiated extensively over the class definition and
 14 notice process, and ultimately determined that SoFi’s customer service line records provide a
 15 reasonable proxy for identifying class members who were not bound by arbitration (by virtue of
 16 having sought to apply over the phone). Miazad Decl. ¶ 18. Based on Class Counsel’s
 17 experience in related immigration-based discrimination cases, publication notice has not been an
 18 effective mechanism in identifying eligible class members. *Id.* ¶ 19. Further, the Settlement
 19 Administrator’s public case website appears in the top 5 Google searches for “SoFi DACA
 20 lawsuit” and provides Class Counsel’s contact information and key documents, and as of April
 21 24, 2023 there were 4,874 unique visitors to the website. *Id.* ¶ 20; Rust Decl. ¶ 14. To date, no
 22 individuals have voiced concerns that they were excluded from the Class after having been denied
 23 SoFi loans based on a non-arbitrable application. Miazad Decl. ¶ 21. Further, to the extent that
 24 there are such individuals, Plaintiffs have ensured through the Settlement that they will not release
 25 any claims. See *Yanez*, 2021 U.S. Dist. LEXIS 135234, at *8 (approving revised class definition
 26 excluding individuals subject to arbitration in part because any such individual “retains his/her
 27 right to bring an individual arbitration” for the claims asserted). Nevertheless, they will benefit
 28

1 equally from the Settlement's critical programmatic relief, and like Class Members, may now be
 2 considered for SoFi loans on the same terms and conditions as U.S. citizens.

3 **C. Notice and Claims Process**

4 The parties have followed Court-approved notice plan, as set forth in the Settlement
 5 Agreement, the amendments to the Settlement Agreement, and the Court's Preliminary Approval
 6 Order. SA §§ 2.5, 5, 7; ECF Nos. 96-97; ECF No. 100-101.

7 Following preliminary approval, in January 2023, SoFi sent Rust the Notice List, which
 8 contained postal addresses and other information for 2,263 individuals identified as potential
 9 Class Members. Rust Decl. ¶ 6. The Notice List is overinclusive in that it contains information
 10 for all individuals who called SoFi's designated customer service line, including those who are
 11 neither DACA recipients nor CPRs, or who do not otherwise meet the Class definition. Miazad
 12 Decl. ¶ 22.

13 Prior to mailing the Notice and Claim Form, Rust verified potential Class Members'
 14 address information through the National Change of Address database ("NCOA"). Rust Decl. ¶
 15 7. By January 30, 2023, Rust sent notice to 2,188 potential Class Members: 1,495 Notice and
 16 Claim Forms via First-Class Mail, 1,524 Notice and Claim Forms by email, and 2,175 text
 17 messages advising potential Class Members of the Notice and Claim Form. *Id.* ¶ 8. Consistent
 18 with modern best practices, Rust maintained a dual-language (English-Spanish) website
 19 providing the Notice, Claim Form, information about deadlines and other relevant dates, key
 20 pleadings and orders and Class Counsel's contact information. *Id.* ¶¶ 4, 13. As of April 24,
 21 2023 there have been 4,874 unique visitors to the settlement website, over twice the number of
 22 individuals on the Notice List (2,263). *Id.* ¶¶ 8, 14. Rust also created a dual-language (English-
 23 Spanish) toll-free phone number to field questions from Class Members. *Id.* ¶ 4.

24 Following mail delivery, 184 Notice and Claim Forms were returned as undeliverable.
 25 Rust Decl. ¶ 10. Rust was able to perform tracing for 157 of these addresses, resulting in 119
 26 with valid forwarding addresses. *Id.* Rust then re-mailed the Notice and Claim Forms to these
 27 119 addresses, with 8 being returned as undeliverable. *Id.* However, these 8 potential Class
 28 Members who did not receive mail notice otherwise received notice by email or text. *Id.* Of the

1 2,175 individuals who were sent text notice, 120 did not receive the notice because it was
 2 undeliverable, and there was no mailing address or email address available for these individuals.
 3 *Id.* ¶ 8. The Notice List also included 75 individuals for whom no phone number, email, or
 4 mailing address was provided, so these individuals did not receive Notice. Rust Decl. ¶ 8. On
 5 February 17, 2023, Rust sent 1,457 Reminder Notices by email, and 2,125 Reminder Text
 6 Messages to potential Class Members that had not yet submitted a Claim Form and W-9. *Id.* ¶
 7 17. Over 91% of potential Class Members received Notice by mail, email, or text.

8 Potential Class Members were able to submit the Claim Form by mail, email, and through
 9 the settlement website. SA § 5.2. The deadline to postmark or submit a Claim Form was March
 10 21, 2023. Rust Decl. ¶ 18. As of April 24, 2023, Rust has received 144 Verified Claims (41
 11 Verified California Class Claims and 103 Verified National Class Claims Class) from 111 Class
 12 Members. *Id.* Rust has received an additional 17 Claim Forms deemed deficient for failing to
 13 provide required information. *Id.* Potential Class Members who submitted deficient Claim
 14 Forms were sent a cure letter providing them instructions to cure the deficiency, and the
 15 postmark deadline to respond to the cure letter is April 19, 2023. *Id.* ¶ 19. Given the postmarked
 16 date, Rust may receive timely cure responses up to two weeks past the April 19, 2023 deadline
 17 and Class Counsel will provide an update to the Court at the May 11, 2023 Fairness Hearing if
 18 there are any additional Verified Claims. *Id.*

19 The deadline for Class Members to object to or opt out of the Settlement was March 6,
 20 2023. Rust Decl., ¶¶ 15-16; see also Rust Decl. Exs. B-C (Notice). No Class Members have
 21 submitted an objection or opted out of the Settlement. Rust Decl. ¶¶ 15-16.

22 **D. CAFA Notice Requirements Were Satisfied.**

23 In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, Rust
 24 served CAFA notices on the relevant federal and state attorneys generals on April 29, 2022.
 25 Rust Decl. ¶ 5. The Fairness Hearing, set for May 11, 2023 is being held more than 90 days after
 26 the issuance of the CAFA notice, such that the final approval order may be entered in accordance
 27 with CAFA’s notice requirements if the Court finds that all other requirements are met. 28
 28 U.S.C. § 1715(d).

1 **III. ARGUMENT**

2 **A. The Best Practicable Notice of Settlement Has Been Provided to the Class.**

3 The notice here was the “best notice that is practicable under the circumstances,” Fed. R.
 4 Civ. P. 23(c)(2)(B), and was provided “in a reasonable manner to all class members who would
 5 be bound by the proposal.” Fed. R. Civ. P. 23(e)(1)(B). Notice is satisfactory “if it generally
 6 describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to
 7 investigate and to come forward and be heard.” *Churchill Village, LLC v. Gen. Elec.*, 361 F.3d
 8 566, 575 (9th Cir. 2004) (internal citation and quotation marks omitted). Notice mailed to each
 9 class member “who can be identified through reasonable effort” constitutes reasonable notice.
 10 *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). “[T]he rule does not insist on actual
 11 notice to all class members in all cases’ and ‘recognizes it might be *impossible* to identify some
 12 class members for purposes of actual notice.’” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121,
 13 1129 (9th Cir. 2017) (quoting *Mullins v. Direct Digital, LLC*, 795 F.3d 654, 665 (7th Cir. 2015)).
 14 For any class certified under Rule 23(b)(3), the notice must inform class members “that the court
 15 will exclude from the class any member who requests exclusion,” stating “the time and manner
 16 for requesting exclusion.” Fed. R. Civ. P. 23(c)(2)(B)(v)-(vi).

17 As described above, the mailing and emailing of Notices to Class Members and the
 18 administration of the notice process ensured that the best notice practicable was provided to Class
 19 Members. Although the Notice List was overinclusive (because SoFi’s call records do not reflect
 20 citizenship or immigration status), courts widely recognize that notice mailed to “a broader group
 21 than the class definition” meets the definition of the best notice practicable under the
 22 circumstances “as long as there is some link or connection between the method of class notice and
 23 the class definition.” *Victorino v. FCA US LLC*, No. 16 Civ. 1617, 2020 U.S. Dist. LEXIS
 24 155991, at *5-6 (S.D. Cal. Aug. 27, 2020) (collecting cases). Here, the Notice List was generated
 25 based on records from SoFi’s dedicated customer service line for non-citizen applicants. See
 26 Miazad Decl. ¶ 23. In accordance with the Northern District’s Procedural Guidance for Class
 27 Action Settlements, the Notice was easily understandable, and included Class Counsel’s contact
 28 information, the address for the settlement administration website, and instructions on how to

access the case docket. See Rust Decl., Exs. B-D (Notice).

The parties and the Settlement Administrator have complied with the Court-approved notice plan, as set forth in the Settlement Agreement, the amendments to the Settlement, and the Court’s Preliminary Approval Order. SA §§ 2.5, 5, 7; ECF Nos. 96-97; ECF No. 100-101. Because Class Members have been given a full and fair opportunity to consider the terms of the proposed settlement and make an informed decision on whether to participate, the Court should find that the notice was adequate and the best practicable. *See Ford v. CEC Entm’t Inc.*, No. 14 Civ. 677, 2015 U.S. Dist. LEXIS 191966, at *7-8 (S.D. Cal. Dec. 14, 2015) (finding notice standards satisfied when claims administrator provided notice in accordance with the procedures previously approved by the court in its preliminary approval order).

B. Final Certification of the Rule 23 Classes is Proper.

At the preliminary approval stage, the Court conditionally certified the California Class and the National Class under Rule 23(a) and 23(b)(3). ECF No. 101 at 5-6. The Court also conditionally appointed Plaintiffs Segarceanu, Galicia, and Jimenez as Class Representatives, and conditionally appointed Plaintiffs' counsel, Outten & Golden LLP and Lawyers for Civil Rights, as Class Counsel. *Id.* at 6-7.

For the reasons outlined in Plaintiffs' Motion for Preliminary Approval, and the Court's Preliminary Approval Order, the Class, Class Representatives and Class Counsel readily satisfy Rule 23's requirements for settlement purposes. ECF No. 93 at 15-24; ECF No. 101 at 5-7. The Court's preliminary certification decisions should now be confirmed as final.

C. Final Approval of the Class Action Settlement Should Be Granted Because the Settlement Is Fair, Adequate, and Reasonable and Appropriate under Rule 23.

The touchstone for the final approval inquiry is whether the settlement is “fair, adequate and reasonable,” recognizing that “it is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness.” *Staton v. Boeing Co.*, 327 F.3d 938, 952, 960 (9th Cir. 2003) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (internal quotation marks and alterations omitted)). Pursuant to Rule 23(e)(2), a court must consider whether “(A) the class representatives and class counsel have adequately represented the

1 class; (B) the proposal was negotiated at arms' length; (C) the relief provided for the class is
 2 adequate . . . [and] (D) the proposal treats class members equitably to each other." In analyzing
 3 whether class relief is adequate, the court must consider the costs, risks, and delay of trial and
 4 appeal; the method of processing class member claims and distributing relief; the terms of any
 5 attorneys' fee awards; and any agreement made in connection with the settlement proposal. Fed.
 6 R. Civ. P. 23(e)(2)(C)(i)-(iv); 23(e)(3).

7 This standard overlaps with the instruction of *Hanlon* to balance the following factors in
 8 assessing a proposed class action settlement:

9 [1] the strength of the plaintiffs' case; [2] the risk, expense, complexity, and likely
 10 duration of further litigation; [3] the risk of maintaining class action status
 11 throughout the trial; [4] the amount offered in settlement; [5] the extent of
 12 discovery completed and the stage of the proceedings; [6] the experience and
 views of counsel; [7] the presence of a governmental participant; and [8] the
 reaction of the class members to the proposed settlement.

13 *Hanlon*, 150 F.3d at 1026; *see also Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 963 (9th
 14 Cir. 2009) (same). The inquiry required upon settlement is heightened where a case is
 15 settled prior to formal class certification. *See Roes v. SFBSC Mgmt., LLC*, 944 F.3d 1035,
 16 1048 (9th Cir. 2019). Here, a rigorous review of the Settlement confirms that it merits final
 17 approval, as evidenced by a consideration of the factors set forth in *Hanlon*.

18 **1. Plaintiffs' Case Faced Significant Hurdles on Liability and Class
 19 Certification.**

20 "Approval of a class settlement is appropriate when 'there are significant barriers
 21 plaintiffs must overcome in making their case.'" *Betancourt v. Advantage Human Resourcing,*
Inc., No. 14 Civ. 01788, 2016 U.S. Dist. LEXIS 10361, at *9 (N.D. Cal. Jan. 28, 2016) (quoting
 23 *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 851 (N.D. Cal. 2010)). Plaintiffs face
 24 substantial obstacles to full recovery. First, liability is far from guaranteed. This litigation—a
 25 lending discrimination class action on behalf of DACA recipients and CPRs—presents a
 26 relatively novel theory with numerous unsettled issues. For example, SoFi has vigorously
 27 contended that its policies are lawful and justified based on heightened risks inherent in lending
 28 to individuals with non-permanent immigration status. SoFi has also argued that the Equal

1 Credit Opportunity Act provides that permanence of residency and immigration status are
 2 legitimate considerations in assessing credit and repayment risk. SoFi may also highlight events
 3 in Plaintiffs' credit history to show that they were not qualified for the credit products they
 4 sought, regardless of their immigration status.

5 Plaintiffs further face obstacles to obtaining class certification. For example, Plaintiffs
 6 would face challenges to certifying a FCRA class, as those claims are predicated on SoFi's
 7 knowledge of applicants' CPR status based on the electronic submission of conditional green
 8 cards during the online application process. Because online applicants were required to agree to
 9 SoFi's arbitration agreement, and because very few online applicants opted out of arbitration in
 10 writing, there will likely be few, if any, members of a FCRA class apart from Plaintiff
 11 Segarceanu. SoFi may also argue that Class Members' claims cannot be tried collectively due to
 12 individualized differences in their applications and credit histories, thereby preventing a finding
 13 of predominance.

14 **2. The Settlement Amount Is Appropriate.**

15 "[P]erhaps the most important factor" courts consider in determining whether to grant
 16 preliminary approval is "plaintiffs' expected recovery balanced against the value of the settlement
 17 offer." *Cotter v. Lyft, Inc.*, 176 F. Supp. 3d 930, 935 (N.D. Cal. 2016) (internal quotation marks
 18 omitted). Here, the monetary and programmatic relief provide excellent value for Class
 19 Members. Though the precise amount of the monetary awards per Class Member is not yet
 20 known, under any scenario the monetary relief under the settlement is likely to be a high
 21 percentage of their maximum damages.

22 California Class Members are eligible for individual payments of up to \$1,620 per denial
 23 of a credit application, which amounts to approximately 40% of the \$4,000 statutory damages
 24 available under the Unruh Act for each discriminatory act. Rust Decl. ¶ 20; Cal. Civil Code §
 25 52(a). This is an excellent result for California Class Members.⁴ In light of the risks of an
 26

27 ⁴ See, e.g., *Betancourt*, No. 14 Civ. 1788, 2016 U.S. Dist. LEXIS 10361, at *13-14, *28
 28 (N.D. Cal. Jan 28, 2016) (granting final approval of settlement providing approximately 9.7% of
 total maximum potential recovery if class members had prevailed on all claims); *Stovall-Gusman*

1 adverse judgment on the merits, class certification or appeal, even lesser payments would provide
 2 an excellent value to California Class Members.

3 National Class Members are eligible for individual awards of up to \$540 per denial of a
 4 credit application, which constitutes an excellent recovery considering the challenges inherent in
 5 establishing Section 1981 liability class-wide, and in certifying a FCRA class (as described above
 6 in Section III(C)(1). *See Rust Decl.* ¶ 20. In particular, Class Members will face significant
 7 challenges in establishing compensatory damages resulting from SoFi's denial of their loan
 8 applications. Again, given the risks on class certification and the merits, even lower payments
 9 would constitute an excellent recovery for National Class Members.

10 Plaintiffs also obtained the *maximum* degree of Programmatic Relief that Class Members
 11 could possibly obtain (SoFi's agreement to abandon the exclusionary lending policies that
 12 Plaintiffs sought to challenge through this litigation). SoFi has agreed to extend its loans to
 13 current and valid DACA recipients and CPRs on the same terms and conditions as U.S. citizens
 14 and LPRs. All DACA recipients and CPRs nationwide—not just Class Members—will benefit
 15 from this Programmatic Relief, enabling hundreds of thousands of individuals to obtain credit
 16 under SoFi's comparatively advantageous rates. Thus, the Programmatic Relief achieved here
 17 provides a significant benefit to Class Members (and DACA recipients and CPRs nationwide) and
 18 does so immediately, without the delay and uncertainty of protracted litigation, trial and possible
 19 appeal.

20 **3. The Extent of Discovery Supports Settlement.**

21 A settlement requires adequate discovery. The touchstone of the analysis is whether “the
 22 parties have sufficient information to make an informed decision about settlement,” including
 23 formal and informal discovery. *Dunleavy v. Nadler* (*In re Mego Fin. Corp. Sec. Litig.*), 213 F.3d
 24 454, 459 (9th Cir. 2000) (quoting *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239 (9th Cir.
 25

26 *v. W.W. Granger, Inc.*, No. 13 Civ. 2540, U.S. Dist. LEXIS 78671, at *12, *14 (N.D. Cal. June
 27 17, 2015) (finding that a settlement constituting 7.3% of plaintiff’s estimated trial award to be
 28 “within the range of reasonableness”); *In re Heritage Bond Litig.*, No. 02 ML 1475, 2005 U.S.
 Dist. LEXIS 13555, at *62 (C.D. Cal. June 10, 2005) (calling a recovery of 36% of the total net
 loss an “exceptional result”).

1 1998)). Here, Plaintiffs have litigated these claims zealously for two years, conducting both
 2 formal and informal discovery along the way. Miazad Decl. ¶ 24. Specifically, SoFi produced
 3 relevant policies and procedures, underwriting materials, application materials and applicant data,
 4 as well as records from its customer service phone number dedicated to serving DACA recipients
 5 and other non-citizens. *Id.* Plaintiffs produced their online application materials, screen shots of
 6 online accounts, credit reports, emails with SoFi personnel, and evidence of phone calls with
 7 SoFi's customer service department, and also participated in numerous intakes, interviews and
 8 discussions with Class Counsel regarding their claims. *Id.* ¶ 25. Thus, the settlement results from
 9 Class Counsel's informed judgment about the strengths and weaknesses of the claims.

10 **4. Counsel's Experience and Views Support Approval.**

11 “‘Great weight’ is accorded to the recommendation of counsel, who are most closely
 12 acquainted with the facts of the underlying litigation.” *See Nat'l Rural Telecomms. Coop. v.*
 13 *DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004) (quoting *In re PaineWebber Ltd. P'ships*
 14 *Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. 1997)). “[P]arties represented by competent counsel are
 15 better positioned than courts to produce a settlement that fairly reflects each party’s expected
 16 outcome in litigation[.]” *Rodriguez*, 563 F.3d at 967. Class Counsel are some of the most
 17 experienced class action litigators in the country. *See* Miazad Decl. ¶¶ 4-9; ECF No. 106-3 (Hall
 18 Decl. ISO Fees) ¶¶ 6-7. Class Counsel specialize in prosecuting complex employment and civil
 19 rights class actions, and over many years have successfully—and unsuccessfully—litigated many
 20 such cases, putting them in a strong position to weigh the strengths and weaknesses of Plaintiffs’
 21 claims and SoFi’s defenses. *Id.*; *see also* ECF No. 93-2 (Miazad Decl. ISO PA), Ex. B (listing
 22 comparable past distributions). Based on their extensive experience, Class Counsel believe that
 23 the settlement is fair, reasonable, and adequate.

24 **5. Class Members Have Reacted Positively to the Settlement.**

25 Class Members in this case have reacted very positively to the Settlement. While the
 26 precise number of Class Members is unknown, Plaintiffs’ applied assumptions lead to an estimate
 27 of the Class as anywhere between 460 (60 California Class Members and 400 National Class
 28 Members) and 690 (90 California Class Members and 600 National Class Members) individuals.

1 ECF No. 99 (Supplemental Miazad Decl.) ¶ 8. To date, 111 Class Members submitted Verified
 2 Claims, Rust Decl. ¶ 18, which is approximately 16% to 24% of the estimated Class size range.
 3 This return rate falls within the 10% to 30% Claim Form return rate that Plaintiffs estimated. See
 4 ECF No. 99 ¶ 8. At the time of this filing, 17 Claim Forms are considered deficient due to a
 5 missing W-9 or other issue regarding the claimant's authority to submit a Claim. Rust Decl. ¶ 19.
 6 Rust may receive timely responses to cure the deficiency after the filing of this Motion, and the
 7 number of Verified Claims may increase by the Fairness Hearing. *Id.*

8 No Class Members have opted out of the Settlement, and none have objected to any part
 9 of the settlement, including the overall monetary relief achieved and the amounts allocated to
 10 attorneys' fees, costs, and Plaintiffs' service awards. *Id.* ¶¶ 15-17. The lack of objections and opt
 11 outs is a strong positive reaction, favoring a finding that the settlement is fair and should be
 12 finally approved. *See DIRECTV, Inc.*, 221 F.R.D. at 529 ("It is established that the absence of a
 13 large number of objections to a proposed class action settlement raises a strong presumption that
 14 the terms of a proposed class settlement action are favorable to the class members."); *Munoz v.*
 15 *BCI Coca-Cola Bottling Co. of Los Angeles*, 112 Cal. Rptr. 3d 324, 333-35 (Cal. Ct. App. 2010)
 16 (affirming final approval and finding reaction to class favorable even where there were two opt-
 17 outs and one objection).

18 **6. The Requirements for Approval under Rule 23(e)(2) Are Met.**

19 As noted above, Rule 23(e)(2) specifies several requirements for approval of a class action
 20 settlement. Each of these requirements is met here. First, Class Representatives and Class
 21 Counsel must have adequately represented the Class. Fed. R. Civ. P. 23(e)(2)(A). As set forth in
 22 greater detail in the Preliminary Approval and Fee Motions, this requirement has been met. *See*
 23 ECF No. 93, 106. Class Representatives have the same interests as other Class Members, and
 24 have devoted dozens of hours advocating on the Class's behalf. *See* ECF No. 106 at 6-8, 21-25.
 25 And, as noted above, Class Counsel are highly experienced and well-regarded in the field of class
 26 action civil rights litigation. *See* Miazad Decl. ¶¶ 4-9; ECF No. 106-3 (Hall Decl. ISO Fees) ¶¶ 5-
 27 7; *see also Gonzalez v. Pritzker*, No. 10 Civ. 3105, 2016 U.S. Dist. LEXIS 131277, at *11
 28 (S.D.N.Y. Sept. 20, 2016) (noting that Outten & Golden are "nationally recognized employment

1 class action litigators” in a Title VII disparate impact case); *Mills v. Capital One, N.A.*, No. 14
 2 Civ. 1937, 2015 U.S. Dist. LEXIS 133530, at *32 (S.D.N.Y. Sept. 30, 2015) (noting Outten &
 3 Golden’s “excellent and well-deserved reputation”); see ECF No. 106-3 (Hall Decl. ISO Fees) ¶¶
 4 6-7.

5 Second, the Settlement was negotiated at arms’ length. Fed. R. Civ. P. 23(e)(2)(B). A
 6 settlement reached “in good faith after a well-informed arms-length negotiation” is presumed to
 7 be fair. *Fernandez v. Victoria Secret Stores, LLC*, No. 06 Civ. 04149, 2008 U.S. Dist. LEXIS
 8 123546, at *15 (C.D. Cal. July 21, 2008).⁵ Here, the Settlement easily meets the rigorous scrutiny
 9 required in this District and by *Roes*, 1–2, for both substantive and procedural reasons. First, the
 10 Settlement is substantively strong, providing excellent monetary relief and robust programmatic
 11 relief. Second, the Settlement is procedurally sound, (a) having been reached after extensive,
 12 hard-fought adversarial litigation, with substantial discovery and motion practice, (b) with no
 13 parallel litigation that could give rise to reverse auction concerns, and (c) after a full-day
 14 mediation session, overseen by a highly experienced mediator with particular expertise in
 15 complex class actions, and followed by months of further negotiations between the parties.
 16 Miazad Decl. ¶ 11. This is precisely the type of “an arms-length, non-collusive, negotiated
 17 resolution” in which Ninth Circuit courts place “a good deal of stock.” *Rodriguez*, 563 F.3d at
 18 965; *see also Bert v. AK Steel Corp.*, No. 12 Civ. 467, 2008 U.S. Dist. LEXIS 111711, at *6-
 19 7 (S.D. Ohio Oct. 23, 2008) (“[P]articipation of an independent mediator in settlement
 20 negotiations virtually ensures that the negotiations were conducted at arm’s length and without
 21 collusion between the parties”). Further, as discussed in Plaintiffs’ Motion for Approval of
 22 Attorneys’ Fees, Costs, and Service Awards, none of the *In re Bluetooth Headset Prods. Liab.*
 23 *Litig.*, 654 F.3d 935 (9th Cir. 2011) factors suggest collusion here. *See* ECF No. 106 at 17-19.
 24
 25

26⁵ *See also Hanlon*, 150 F.3d at 1027 (affirming trial court’s approval of class action
 27 settlement where parties reached agreement after several months of negotiation and the record
 28 contained no evidence of collusion); *Tijero v. Aaron Bros., Inc.*, 301 F.R.D. 314, 324 (N.D. Cal.
 29 2013) (private mediation “support[s] the conclusion that the settlement process was not
 30 collusive”).

1 Third, as discussed in greater detail above, the relief provided by the Settlement is
 2 adequate, particularly considering the relatively novel nature of Plaintiffs' claims. Fed. R. Civ. P.
 3 23(e)(2)(C). Settlement checks will be distributed to Class Members who submitted valid Claim
 4 Forms within 30 days of the Effective Date once their claims are verified pursuant to the
 5 procedures set forth in the Settlement Agreement, and Class Members will have 120 days from
 6 the date of issuance to cash their checks. SA § 5.2.4. Attorneys' fees, as awarded by the Court,
 7 will be paid within 14 days after the Effective Date to the Settlement Administrator, to be
 8 distributed pursuant to Class Counsel in accordance with the Settlement Agreement. *Id.* § 15.1.4

9 Fourth, the Settlement treats similarly-situated Class Members the same. All California
 10 Class Members who submit Verified Claim Forms will receive awards in the amount of
 11 approximately \$1,620 for each denied loan application. Rust Decl. ¶ 20; *see also* SA § 3.3.5. All
 12 National Class Members who submit Verified Claim Forms will receive awards in the amount of
 13 approximately \$540 for each denied application. Rust Decl. ¶ 20; *see also* SA § 3.3.5. As
 14 described above, *supra* § III(C)(2), the difference in award amounts for the different Classes is
 15 justified by the difference in possible financial recovery for claims brought under the Unruh Act
 16 and claims brought under Section 1981.

17 **IV. CONCLUSION**

18 For the foregoing reasons, and the reasons set forth in Plaintiffs' Preliminary Approval
 19 Motion and Plaintiffs' Motion for Approval of Attorneys' Fees, Costs, and Service Awards,
 20 Plaintiffs respectfully request that the Court grant Final Approval of the Settlement, grant final
 21 certification of the Class, designate Plaintiffs Segarceanu, Galicia, and Jimenez as Class
 22 Representatives, and confirm Outten & Golden LLP and Lawyers for Civil Rights as Class
 23 Counsel.

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2 Dated: April 27, 2023
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Respectfully submitted,

4 By: /s/ Ossai Miazad
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